

RESOLUTION NO. 5778

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Charles H. Howarth

Purpose

A permanent variable width utility easement and 25-foot wide and 50-foot wide temporary construction easements from Howarth to City of Albany, more particularly described in the attached "EXHIBIT A", shown in the attached drawing "Exhibit B" and located on the attached Vicinity Map "Exhibit C".

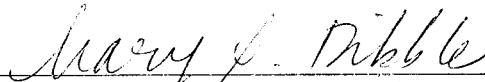
NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement.

DATED AND EFFECTIVE THE 27TH DAY OF MAY 2009



Mayor

ATTEST:



Deputy City Recorder

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 8th day of May, 2009 by and between **Charles H. Howarth**, herein called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the Grantor has this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The right-of-way hereby granted consists of:

A variable width permanent utility easement and 25.0 foot wide and 50.0 foot wide temporary construction easements described in the attached legal description labeled "EXHIBIT A" and shown on the attached maps labeled "EXHIBIT B" and "EXHIBIT C".

2. The **permanent** easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes. The **temporary** easement described herein grants to the City, and its authorized agents or contractors, an irrevocable right to enter upon said easement at any time within a period of twelve (12) months from the date of this instrument, for construction, repair, evaluation, or maintenance purposes.
3. The easement granted is in consideration of **\$4,878.72**, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.
4. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
5. Upon performing any maintenance, the City shall return the site to original or better condition.
6. No permanent structure shall be constructed by Grantor on this easement.

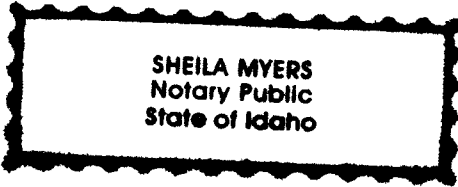
IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year above written.

GRANTOR:

Charles H. Howarth M.D.
Charles H. Howarth
STATE OF Idaho)
County of Ada) ss.
City of Eagle)

The foregoing instrument was acknowledged before me this 8th day of May, 2009, by Charles H. Howarth as his voluntary act and deed.

Sheila Myers
Notary Public for US BANK
My Commission Expires: 04/03/2014



CITY OF ALBANY:

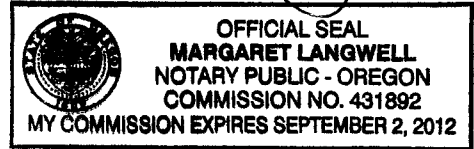
STATE OF OREGON)
County of Linn) ss.
City of Albany)

I, Wes Hare as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 5778, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 3 day of June, 2009

Wes Hare
City Manager

ATTEST:

Margaret Langwell
City Recorder



Legal Description
City of Albany
Permanent Utility Easement
And
Temporary Construction Easements

A variable width strip of land for easement purposes located over a portion of that Howarth Tract described by deed recorded in M-102267 in the Benton County, Oregon Deed Records which portion being in Sections 5 and 6 in Township 11 South, Range 3 West, Willamette Meridian, Benton County, Oregon said strip being more particularly described as follows:

Commencing at City of Albany GPS Point Number 93627; thence South 76°38'51" East 2707.37 feet to a 5/8 inch rod set in County Survey Number 5416, a record of survey filed in the office of the Benton County Surveyor; thence North 26°59'01" East 10.22 feet to a point on the easterly right-of-way line of the Southern Pacific Railroad (100 foot wide right-of-way) to the **TRUE POINT OF BEGINNING**; thence on a line that is 15.00 feet northerly and parallel with an underground sanitary sewer line the following four (4) courses: 1) North 65°10'36" East 1545.33 feet; 2) thence North 65°28'47" East 300.30 feet; 3) thence along the arc of a 415.00 radius curve to the right (long chord of which bears North 72°02'20" East 94.84 feet) a distance of 95.05 feet; 4) thence North 78°36'10" East 412.29 feet to a point on the south line of said Howarth Tract; thence South 67°40'16" West, on said south line, 2344.53 feet to a point on the said easterly right-of-way line of the Southern Pacific Railroad ; thence North 12°05'24" West 6.77 feet to the Point of Beginning.

TOGETHER WITH a 25.00 foot wide strip of land for temporary construction purposes, the south line of which being the north line of the above described easement.

The westerly terminus of the above described easements being the easterly right-of-way line of the Southern Pacific Railroad. The easterly terminus of the above described easements being the south line of said Howarth Tract.

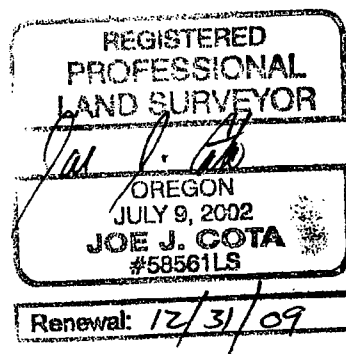
ALSO TOGETHER WITH a 50.00 foot wide strip of for temporary construction purposes over a portion of said Howarth Tract the centerline of which is more particularly described as follows:

Commencing at City of Albany GPS Point Number 96327, a 5/8 inch rod with 2" aluminum cap set in a monument box on NW Hickory Street; thence North 83°02'48" East 5955.80 feet to a 5/8 inch rod with aluminum cap that was set in County Survey Number 6628 as filed in the office of the Benton County Surveyor on May 17, 1978; thence North 53°16'16" East 10.16 feet to the **TRUE POINT OF BEGINNING**; thence North 59°45'42" West 1673.87 feet to the terminus of said 50.00 foot wide strip of land.

The southerly terminus of the above described 50.00 foot wide strip being the south line of said Howarth Tract.

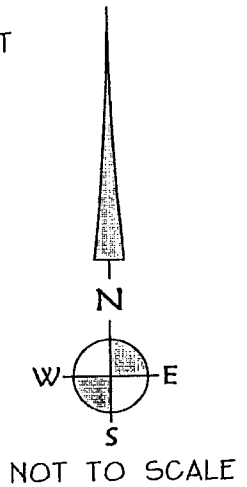
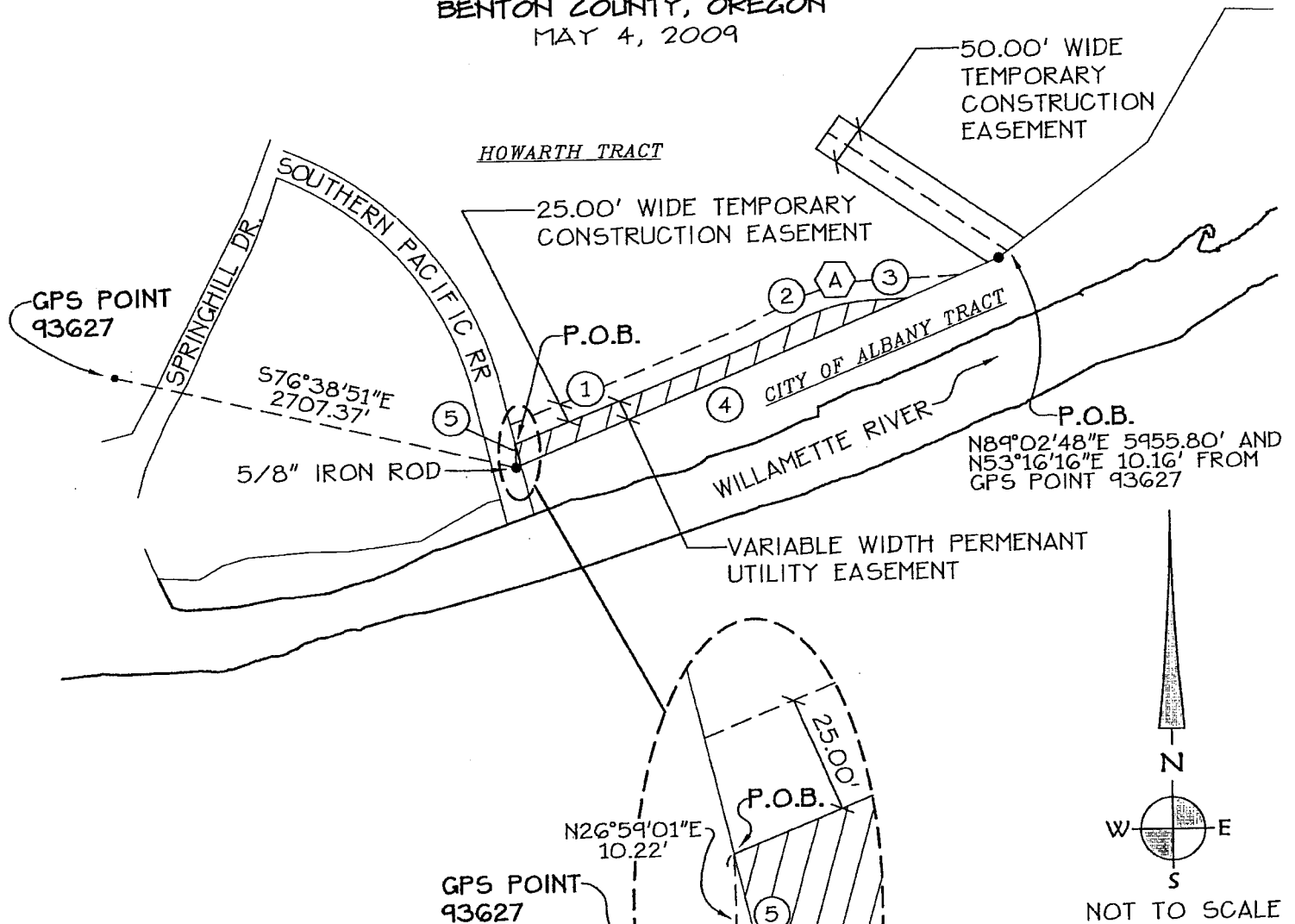
The Basis of Bearings of the above described strips of land is based on the bearing between City of Albany GPS Point Numbers 93627 and 93626 being North 84°10'50" West.

End description.



EASEMENT EXHIBIT CITY OF ALBANY EASEMENT

LOCATED IN
SEC. 5 AND 6, T. 11 S., R. 3 W., W.M.
BENTON COUNTY, OREGON
MAY 4, 2009



LINE DATA TABLE:

LINE	COURSE	LENGTH
1	N65°10'36"E	1545.33'
2	N65°28'47"E	300.30'
3	N78°36'10"E	412.29'
4	S67°40'16"W	2344.53'
5	N12°05'24"E	6.77'

CURVE DATA TABLE:

CURVE	RADIUS	LENGTH	CHORD	DELTA
A	415.00'	95.05'	N72°02'20"E 94.84'	13°07'22"

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Joe J. Cota
OREGON
JULY 9, 2002
JOE J. COTA
#58561LS

Renewal: 12/31/09

Date: 5/4/2009 Time: 16:42
Scale: 1=800
File: dwg\2008\08-139\EXHIBIT-1.dwg (lan)



K & D ENGINEERING, Inc.
276 N.W. Hickory Street P.O. Box 725
Albany, Oregon 97321
(541) 928-2583

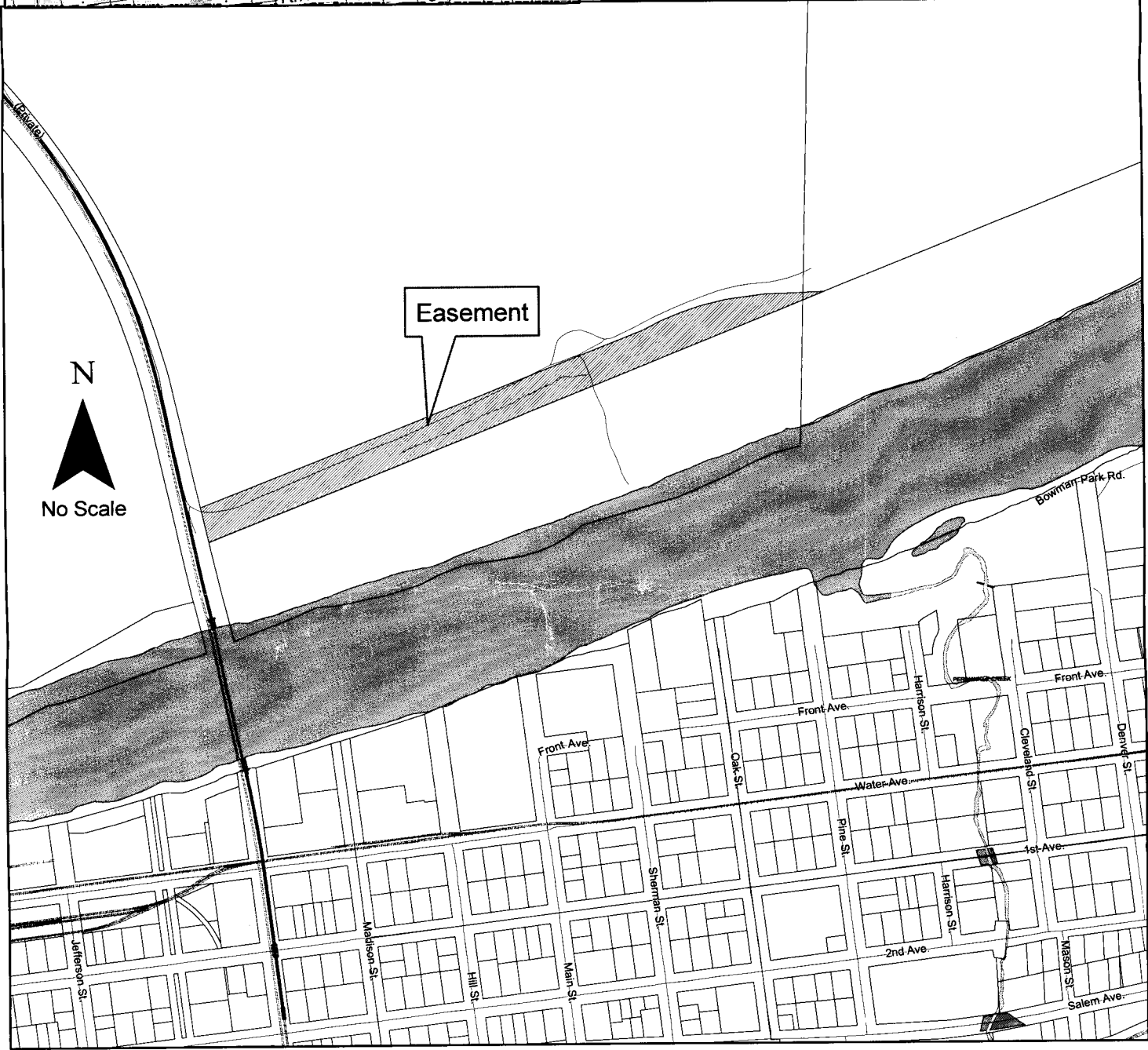
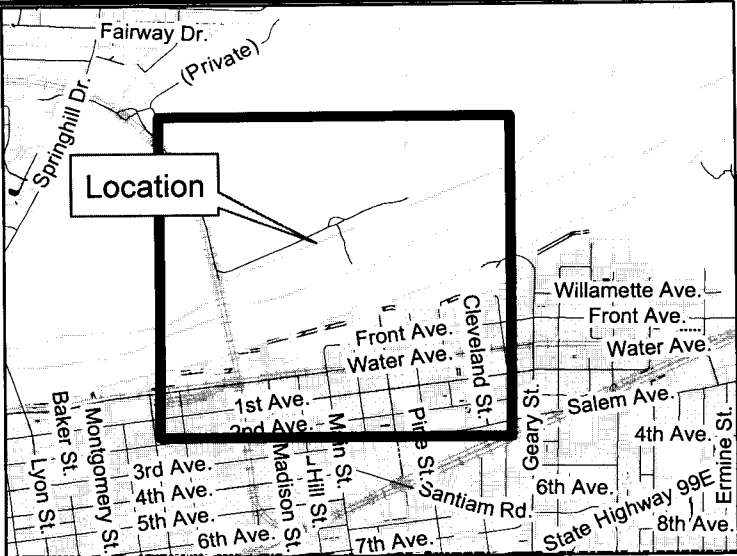
EXHIBIT C

11SO3W06 00103

Permanent Sewer Force Main
Easement for the North Albany
Pump Station.



Geographic Information Services



RECORDING COVER SHEET (Please Print or Type)

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

BENTON COUNTY, OREGON **2009-452068**

DE-EAS

06/05/2009 02:13:03 PM

Cnt=1 Stn=6 NE

\$35.00 \$11.00 \$10.00 \$15.00

\$71.00



00179977200904520680070073

I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



James V. Morales - County Clerk

AFTER RECORDING RETURN TO:

✓ City of Albany Recorder

PO Box 490

Albany, OR 97321

All Tax Statements Should Be Sent To:

NA

1. Name/Title of Transaction - by ORS 205.234 (a)

EASEMENT FOR PUBLIC UTILITIES

2. Grantor/Direct Party - required by ORS 205.125(1)(b) and ORS 205.160

Charles H. Howarth

3. Grantee/Indirect Party - required by ORS 205.125(1)(a) and ORS 205.160

City of Albany

4. True and Actual Consideration (if there is one), ORS 93.030

\$4,878.72

Resolution No. 5778

Recorded Document Recorder File No. 5333